IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1970 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIRGINIA TOBACCO GROWERS' AND CURERS' COOPERATIVE SOCIETY - Petitioner(s)
Versus
DISTRICT REGISTRAR & 2 - Respondent(s)

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Appearance :

MR MEHUL S SHAH for Petitioner(s) : 1,MR SURESH M SHAH for Petitioner(s) : 1,
MR JK SHAH, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 08/12/2006

ORAL JUDGMENT

1. In this petition, the petitioner- a cooperative society has challenged the orders passed by the

authorities ordering liquidation of the society under the provisions of Gujarat Cooperative Societies Act(here-in-after referred to as “the said Act”).

2. Finding that the society is not functioning properly, District Registrar of Mehsana District issued a show cause notice dated 24th October, 1994, indicating seven different grounds why the society should not be liquidated. It was stated inter-alia that the functioning of the society has stopped since 6 to 7 years. No audit has been carried out from 1987 to 1994. Required audit fee is also not deposited by the society. The society has incurred accumulated losses to the extent of Rs.1,06,927/-. Members of the society do not seem to be interested in running the society.

3. In response to the show cause notice, representation dated 7th December, 1994 came to be made by the society in which it was specifically stated that plantation of tobacco is discontinued since 1983-1984. There is no paid Secretary of the society. Economic activities of the society have been discontinued since 10 years.

4. On the basis of the show cause notice and reply of the society, District Registrar, Mehsana passed an order on 7th January, 1995 ordering

interim liquidation of the society under the provisions of the said Act.

5. On 31st March, 1995, the District Registrar passed an order for liquidation of the society. Further representation filed by the petitioner against the said orders before the State Government came to be rejected by the Government by an order dated 20th July, 1998. The petitioner has therefore, preferred the petition challenging the said orders passed by the authorities.

6. Having heard learned advocate Mr. S.M. Shah for the petitioner-society and learned AGP Mr. Jaswant Shah for the State, I find that from the material available on record, it is not possible to interfere with the orders under challenge in the show cause notice dated 24th October, 1994. The District Registrar had indicated several grounds why the society could not have been permitted to continue. The grounds suggested that the society has been defunct and the members are not interested to carry on activities for which the society was registered. None of these grounds were specifically met with or replied to in the representation dated 7th December, 1994 filed by the society. In fact, the main ground of the society not being active since 6 to 7 years was not only admitted, but it was specifically stated that the society has

stopped functioning since 10 years. In that view of the matter, the authorities committed no error in ordering liquidation of the society. In the revisional order also, the State Government recorded that in response to the show cause notice, representation of the petitioner did not met with any of the grounds. Thus the society has truly become defunct. No useful purpose would be served in sustaining only on paper such a society.

7. It may be noted that during the pendency of the petition, this Court had granted stay in favour of the petitioner against its liquidation.

8. Previously, when this matter was placed before this Court, this Court had requested learned advocate Mr. S.M. Shah for the petitioner to take instructions about the current condition and the functioning of the society. He stated that the Chairman of the society with whom he established contact is completely bed ridden and, therefore, could not supply full details of the current position of the society. It was however, conveyed to him that no other member or paid servant would be in a position to supply necessary details.

9. Considering all these aspects of the matter, I am of the opinion that orders under challenge call for no interference. As stated earlier, no

useful purpose would be served by surviving of such a society. I am not convinced by the contentions raised on behalf of the petitioner that since the petitioner-society is involved in some other litigation, the society should be sustained as to bring a legitimate conclusion to such litigations. I am afraid defunct society cannot be propped up only for this purpose and if the law requires that such a society be liquidated, no writ against such an order in the present case needs to be issued. Learned advocate Mr. S.M. Shah also submitted that the District Registrar passed his impugned order without giving personal hearing to the representative of the petitioner-society. In facts of this case, when grounds stated in the show cause notice were not just denied but substantially admitted, non hearing in my view would make no difference.

10. Considering all these aspects of the matter, I find the petition cannot be entertained, same is therefore, rejected. Rule is discharged.

(Akil Kureshi, J.)

(raghu)